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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 16.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal Nos.30 to 33 of 2003

1.The State of Tamil Nadu,
rep. by its Commissioner and
Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai-600 009.

2.The Special Tahsildar
(Land Acquisition),
Neighbourhood Scheme,
Namakkal, Sale, District. ... Appellants in all WAs./
Respondents

Vs.

K.Kailasam .. Respondent/Petitioner
in WA.30/2003

Velusamy .. Respondent/Petitioner
in WA.31/2003

S.Gopal .. Respondent/Petitioner
in WA.32/2003

1.A.Kannammal

2.Rajan

3.Subbulakshmi

4.Mythili

5.Manickam .. Respondents/Petitioners
in WA.33/2003

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Writ appeals filed under Clause 15 of the Letters Patent against the common order dated 16.11.1996 made in W.P.Nos.9483 to 9485 and 9566 of 1986.

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondents in all the petitions, connected with the G.O.Ms.No.189, 538,538, Housing and Urban Development dated 10.3.1984, 7.7.1984, 7.7.1984 and published in Tamil Nadu Government Gazette dated 18.7.84, 18.7.84 and quash the same in so far as the petitioner's land in TS.No.6/2 and 6/6 and S.No.80/1, 80/6 and 81/1 and S.A.No.82/2, 82/3, 82/4 and 82/5 in Ayyenperumalpatti Village, Salem Taluk, Salem District respectively of an extent of Ac.2.11 is (WP.9483/86) concerned and an extent of Ac.3.33 is (WP.9483, 9485/86) concerned.

WP.No.9566/86: Calling for the records of the respondents connected with G.O.Ms.No.755, Housing and Urban Development dated 4.9.1981 containing 4(1) Notification and the consequential declaration made under Section 6 of the Land Acquisition Act in G.O.Ms.No.608 Housing and Urban Development dated 3.8.84 and quash the same in respect of the petitioner's land in S.No.94/4 Ayyenperumalpatti Village, Salem Taluk, Salem District.

For Appellants : Mr.M.Dhandapani,
in all WAs. Addl. Government Pleader

For Respondents: No appearance
in all WAs.

COMMON JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above appeals have been filed against the common order dated 16.11.1996 made in W.P.Nos.9483 to to 9485 and 9566 of 1986. Aggrieved by the land acquisition proceedings initiated by the Government, the respondents have filed W.P.Nos.9483 to 9485 and 9566 of 1986.

2. Heard the learned Additional Government Pleader appearing for the appellants.

3. Pursuant to rule nisi, the respondents have filed a counter affidavit setting out their defence. When the matter was taken up

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for hearing, it is seen from the impugned order and the arguments advanced on behalf of the writ petitioners that the mandatory provisions laid down by the respondents under the Tamil Nadu Land Acquisition Act, have not been complied with by the respondents. It is clear from paragraph 6 of the order of the learned single Judge. Thereafter, the learned single Judge, noting the fact that the learned Government Pleader appearing for the respondents opposed the claim of the counsel for the petitioner, arrived at a conclusion in paragraph 7, which reads as follows:

> "I have gone through the material available on the record and I am thoroughly convinced that mandatory provisions laid down under the Act has not been complied with by the respondents and the matter is liable to be remanded to the respondents for fresh disposal."

4. After saying so, the learned single Judge has allowed all the writ petitions and set aside the acquisition proceedings and remanded back the same to the first respondent viz., Government for complying with the mandatory provisions required under the Act. As rightly pointed out by the learned Additional Government Pleader, though in the affidavit the writ petitioners have pointed out certain violations and non compliance of the provisions, according to him, in the counter affidavit filed by the respondents, all those points have been met by furnishing required details.

5.In such circumstances, we are of the view that it is but proper on the part of the learned single Judge to consider the issues separately with reference to the stand taken in the counter affidavit as well as the records produced before him and give a specific finding one way or other. Such recourse has not been followed and without assigning any reason, except stating that the mandatory provisions have not been complied with, the learned single Judge has set aside the acquisition proceedings and remitted the matter to the Government. We are unable to accept the said conclusion.

6. Inasmuch as all factual details and legal submissions are not adverted to in the order and of the fact that the respondents/writ petitioners though duly served from this Court, have not been chosen to appear before us, after setting aside the common order of the learned single Judge, we remit the matter to the learned single Judge for disposal of the writ petitions on merits.

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Since the writ petitions are of the year 1986, the office is directed to list all the writ petitions before the concerned Judge dealing with the subject within a period of two weeks from today.

7. The writ appeals are allowed on the above terms. No costs.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Commissioner and
Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development
Department, Fort St. George,
Chennai-600 009.

2.The Special Tahsildar
(Land Acquisition),
Neighbourhood Scheme,
Namakkal, Sale, District.

3. The Section Officer,
Writ Section,
High Court, Madras.

1 cc to the Government Pleader, SR.25138

vc (co)

dv/22.6.06

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